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MARY E. D'ANDREA, CLERK
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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

PAUL LEE,

Plaintiff

v.

UNITED STATES OF AMERICA, et al.
Defendants

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:
:

Civil No. 1:CV-00-00486
(Kane, J.)

BRIEF IN SUPPORT OF
DEFENDANTS' MOTION FOR LEAVE TO FILE
A BRIEF IN EXCESS OF FIFTEEN PAGES

Defendants have requested the Court to permit them to exceed the fifteen-page limit as provided in M.D. Pa. Local Rule 7.8 in filing the brief in support of their motion to dismiss and for summary judgment. The reasons for this motion are as follows:

1. On January 29, 2001, the defendants filed a motion to dismiss and for summary judgment.

2. The amended complaint seeks a writ of mandamus against the Bureau of Prisons to provide plaintiff with hip replacement surgery. In addition, Lee filed a Federal Tort Claims Act ("FTCA"), 28 U.S.C. §2671 et seq. claim, alleging: (1) that he requested and was denied the use of two mattresses therefore causing pain in his hip; (2) that during his incarceration he was provided "improper bedding" that has caused a steady deterioration

of his left hip as well as degenerative arthritis; and, (3) that the United States has negligently failed to provide him with medical care and treatment for his left hip injury.

3. It is defendants' belief that the allegations, in whole or in part, fail to state a claim and that the undisputed facts establish that the defendants are entitled to dismissal and/or summary judgment.

4. Because of the various legal claims and defenses and the need to address the underlying facts relevant to each of the claims, it may not be possible to address all of plaintiff's allegations and defendants' defenses to them in a fifteen-page brief. Indeed, the statement of facts section itself will span at least eight pages of the brief.

5. Defendants submit that their brief will be no longer than twenty (20) pages in length, and likely less.

6. Plaintiff will not be prejudiced in granting this motion; indeed, granting this motion should assist plaintiff in understanding all of defendants' defenses.

Wherefore, defendants request this Court to grant their request for leave to file the brief in support of their motion to dismiss and for summary judgment in excess of the fifteen-page limit.

Respectfully submitted,

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Dated: February 8, 2001

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

PAUL LEE, :
Plaintiff :
 :
v. : Civil No. 1:CV-00-00486
 : (Kane, J.)
UNITED STATES OF AMERICA, et al. :
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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

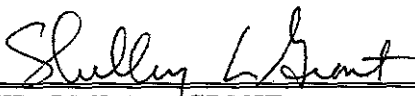
That on February 8, 2001, she served a copy of the attached

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by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania.

Addressee:

Paul Lee
Reg. No. 01656-087
FCI Elkton
P.O. Box 89
Elkton, Ohio 44415


SHELLEY L. GRANT
Paralegal Specialist